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## DEPARTMENT OF LABOR AND EMPLOYMENT

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<b>Category:</b> Finance (F)
<b>Subject:</b> Property Management
<b>Source:</b> State/Federal
<b>Revise/Replace:</b> Colorado Job Training Partnership Act Policy Guidance Letter #93-10-F4
<b>Contact:</b> Finance and Audit
<b>Distribution:</b> All Workforce Region and Subrecipient Administrative and Financial Staff
<b>Colorado One-Stop System Policy Guidance Letter #: 01-12-F4</b>
<b>Date:</b> April 11, 2001

### I. REFERENCES:

Office of Management and Budget (OMB) Circular A-87, *Cost Principles for State, Local and Indian Tribal Governments*; OMB Circular A-122, *Cost Principles for Non-Profit Organizations*; OMB Circular A-21, *Cost Principles for Educational Institutions*; 29 Code of Federal Regulation (CFR) Part 97, *Common Rule for Uniform Administrative Requirements for Grant and Cooperative Agreements to State and Local Governments*; OMB Circular A-110, *Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations*; Colorado Job Training Partnership Act (JTPA) Policy Guidance Letter (PGL) #93-10-F4, *Property Management*; Department of Labor (DOL), Employment and Training Administration (ETA), Financial Management Technical Assistance Guides (TAGs); Merriam-Webster's Collegiate Dictionary.

### II. PURPOSE:

The purpose of this PGL is to notify all Colorado Department of Labor and Employment's (CDLE's) subrecipients receiving CDLE pass-through Federal funds of the CDLE property management policies and procedures that must be followed in order to meet the federal statutory and regulatory requirements.

### III. BACKGROUND:

CDLE has found it necessary to implement a comprehensive subrecipient property management policy and procedure that applies to all CDLE pass-through Federal funds used by subrecipients to purchase property.

For state, local and Indian tribal governments, Federal requirements governing the title, use, and disposition of equipment and supplies purchased with Federal funds are in the "Common Rule" requirements at 29 CFR Part 97, Subpart C, Section .32, *Uniform Administrative Requirements for Grant and Cooperative Agreements to State and Local*

*Governments.* The 29 CFR Part 97 requirements apply to governmental entities that are recipients or subrecipients of Federal grant funds. OMB Circular A-110, *Uniform Administrative Requirement for Grants and Agreements with Institutions of Higher Education, Hospitals and Other Nonprofit Organizations*, codified at 29 CFR Part 95, Subpart C, Section .34, applies to nonprofits, higher education institutions, and commercial organizations that are recipients or subrecipients of Federal grant funds.

#### IV. **POLICY/ACTION:**

##### A. **General Subrecipient Requirements**

All subrecipients must comply with these CDLE property management policies and procedures. In addition, all subrecipients must comply with, depending on the type of entity, the requirements of 29 CFR Part 97 or 29 CFR Part 95. All subrecipients must ensure that they will maintain proper inventory control over all nonexpendable property purchased with Federal funds.

##### B. **Requirements for CDLE Subrecipients Including States, Other Governmental Entities, Institutions of Higher Education, Hospitals, Other Nonprofits, and Commercial Subrecipients**

29 CFR Part 97 addresses the property requirements for governmental recipients/subrecipients at 97.31 (Real Property), Part 97.32 (Equipment), Part 97.33 (Supplies), and Part 97.34 (Copyrights). See Attachment 2.

29 CFR Part 95 addresses the property requirements for institutions of higher education, hospitals, other nonprofits, and commercial recipients/subrecipients at 95.32 (Real Property), Part 95.34 (Equipment), Part 95.35 (Supplies and Other Expendable Property), and Part 95.36 (Intangible Property). See Attachment 3.

#### 1. **Real Property**

##### a. **Acquisition of Real Property**

The acquisition of real property, through purchase or construction, by a subrecipient with Federal funds received from CDLE, is generally not allowable. However, if it is necessary to acquire real property, the subrecipient must submit a request for approval to CDLE. The subrecipient must receive approval from CDLE prior to acquisition of any real property.

If such a request is approved by CDLE, CDLE will notify the Federal Department's Secretary immediately upon acquisition of real property with Federal funds, including acquisitions by subrecipients. Such notification shall include the location of the real property and the Federal share percentage.

##### b. **Title, Use and Disposition of Real Property**

29 CFR Part 97.31 establishes the rules for the title, use and disposition of real property for other governmental (non-state) recipients and subrecipients. (See Attachment 2)

29 CFR Part 95.32 establishes the rules for the title, use and disposition of real property for institutions of higher education, hospitals, other nonprofits, and commercial recipients and subrecipients. (See Attachment 3)

## 2. Equipment

### a. Acquisition of Equipment

The disposition of equipment purchased with Federal funds gives the Federal awarding agency (e.g., CDLE and/or DOL) a right to its proportional share of the proceeds from the sale. As such, CDLE needs to authorize and subsequently track its subrecipient's acquisition of equipment purchased with CDLE pass-through Federal funds that may be disposed of later by the subrecipient. In order to receive the required prior CDLE authorization, subrecipients must submit a **Property Requisition Authorization Form (PRAF)** [See Attachment 4]. The PRAF must be submitted for all tangible, nonexpendable personal property having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit, including all costs related to the property's final intended use that will be direct charged to a CDLE awarded grant(s).

The subrecipient should submit the PRAF to its assigned CDLE Monitor for initial approval. If initially approved, the CDLE Monitor will forward the PRAF to CDLE's Property Agent for final approval.

After receipt of an approved PRAF, the subrecipient may acquire the requested property. Then, after the actual acquisition of the property (equipment), as defined above, the subrecipient must submit a **Property Acquisition Form (PAF)** to CDLE's Property Agent identifying the equipment purchased. (See Attachment 5)

The subrecipient must internally track all equipment purchased with any CDLE pass-through funds from purchase through disposition. This would also include equipment previously purchased with pass-through funds received from CDLE or equipment transferred into the Workforce Investment Act (WIA) program that was originally purchased under the Job Training Partnership Act (JTPA) or Comprehensive Employment and Training Act (CETA) programs.

Subrecipients must follow, depending on the type of entity, their applicable Uniform Administrative Requirements when procuring property with federal funds. Subrecipients must follow, depending

on the type of entity, their applicable Cost Principles (i.e., OMB Circular A-87, A-122, or A-21) when determining the allowability and accounting of property costs. See the Subrecipient Financial Procedures PGL for more information and state policies and procedures regarding the accounting for property.

b. Title to Equipment

Title to equipment vests, upon acquisition, in the recipient or subrecipient (i.e., whoever acquired the equipment).

c. Use of Equipment

i. *States.* No requirements are imposed upon State recipients and subrecipients other than they must use, manage, and dispose of the equipment, acquired under a grant by the State, in accordance with State laws and procedures. State recipients and subrecipients have no obligation to the Federal government for equipment they acquire with Federal grant funds beyond compliance with State standards for the use, care, and disposition of equipment.

ii. *Other Governmental (non-State) Entities, Institutions of Higher Education, Hospitals, Other Nonprofits, and Commercial Recipients and Subrecipients.* Recipients and subrecipients must use the equipment in the program or project for which it was acquired as long as it is needed, whether or not the project or program continues to be supported by Federal funds. When equipment is no longer needed for the original program or project, the equipment may be used in other activities currently or previously supported by a Federal agency. The acquiring entity must make the equipment available for use on other projects or programs currently or previously supported by the Federal government, to the extent that such use will not interfere with its use in the program it was originally acquired. Preference for other uses shall be given to programs or projects supported by DOL.

User fees should be considered, if appropriate, and treated as program income. The equipment cannot be used to provide services for a fee to compete unfairly with private companies that provide equivalent services, unless specifically permitted or contemplated by Federal statute.

d. Management of Equipment

The acquiring agency must meet the following minimum equipment management standards:

i. Equipment records must be maintained that include the

following data on each piece of equipment: description, serial number, funding source of property, title holder, acquisition date and cost, percentage of Federal program participation in the cost, location, use, and condition of the property, and ultimate disposition data including date of disposal and sale price.

- ii. A physical inventory of the equipment must be taken and the results reconciled with the equipment records at least once every two years.
- iii. A control system must be developed to ensure adequate safeguards to prevent loss, damage, or theft of the equipment. Any loss, damage, or theft must be investigated.
- iv. Adequate maintenance procedures must be developed to keep the equipment in good condition.
- v. If equipment is sold, proper sales procedures must be established to ensure the highest possible return.

Subrecipients should implement similar property management procedures for all its property, including nonexpendable supplies, in accordance with its local and or internal policy(ies).

e. Disposition of Equipment

When equipment with a current per-unit fair market value in excess of \$5,000 is no longer needed for the original program, programs, or for other activities currently or previously supported by the Federal agency, it can be sold. The CDLE's/Federal agency's share of the proceeds is determined by multiplying the current fair market value or the proceeds from the sale by the CDLE's share of the equipment.

Equipment items with a current per-unit fair market value of less than \$5,000 may be kept, sold, or disposed of with no obligation to the CDLE. CDLE may dispose of the equipment if the acquiring agency does not take appropriate action.

### 3. Depreciation

The Generally Accepted Accounting Principles (GAAP) require nongovernmental subrecipients to depreciate assets owned by the entity.

Allowable property charges to programs for those entities required to depreciate assets must not exceed allocable depreciation charges in any given fiscal or program year and shall reflect the benefit received by the programs. Depreciation may be charged against current and subsequent benefitting contracts.

The depreciable lives assigned to assets shall be consistent with similar asset lives for non-Federal assets owned by the entity. The straight-line method of depreciation shall be used to depreciate all assets with Federal funds.

The nongovernmental subrecipient shall reimburse the awarding agency, CDLE (the Federal program), for the unexpended portion of Federal property costs, upon contract termination, if all the following conditions exist:

- A. The asset was purchased with Federal funds received from CDLE;
- B. The Federal asset assigned life exceeds the CDLE contract period under which it was purchased;
- C. The nongovernmental subrecipient, who purchased the Federal asset, no longer receives CDLE Federal funding; and
- D. The nongovernmental subrecipient retains title and possession of the asset after CDLE contract termination.

Subrecipients must follow, depending on the type of entity, their applicable Cost Principles (i.e., OMB Circular A-87, A-122, or A-21) when determining the allowability and accounting of property depreciation and use allowance costs. See the Subrecipient Financial Procedures PGL for more information and state policies and procedures regarding the accounting for property depreciation and use allowance costs.

### 4. Physical Inventory Procedures

The CDLE requires that each subrecipient perform an annual physical inventory by **June 30** of each year, of all equipment purchased with any CDLE pass-through funds (this also includes equipment transferred into WIA that was originally purchased under CETA and JTPA) and entitled to the subrecipient.

A Subrecipient Certification of Physical Inventory (Attachment 6) must be completed and submitted to the CDLE by **June 30** of each year. The

subrecipient agrees that all Federal property will be appropriately maintained and replaced with non-Federal funds if lost, stolen, or damaged (see “Insurance”, below).

By **June 30** of each year, all subrecipients with on-site equipment purchased with any CDLE pass-through funds (this also includes equipment transferred into WIA that was originally purchased under CETA and JTPA) must sign this Certification, include necessary revisions to the attached inventory listing, and submit it to the CDLE. Workforce Regions must also submit and attach a copy of their individual site codes when submitting the certification to CDLE.

It is recommended that each subrecipient maintain documentation files on-site that verify an annual physical inventory of all property, including nonexpendable supplies, was conducted.

**NOTE:** Equipment PRAFs will not be accepted or processed until these certifications are returned to CDLE.

During monitoring visits, the CDLE may conduct a random sampling of its equipment inventory (Attachment 7).

CDLE may randomly select a subrecipient to conduct a 100% physical inventory to verify its property and records.

## **5. Missing or Stolen Property**

A subrecipient must complete and obtain copies of appropriate police reports and insurance claim forms on any lost or stolen property.

CDLE must be notified in writing within 30 days of the loss or theft of property purchased with any CDLE pass-through funds (this also includes property transferred into WIA that was originally purchased under CETA and JTPA). This notification should include a copy of the police report and insurance claim form.

Upon receipt of insurance monies, replacement property should be purchased. If title to the lost/stolen property is with CDLE, then title of the replacement property will remain with CDLE. If title to the lost/stolen property is with a governmental or nongovernmental subrecipient, then title of the replacement property will remain with the governmental or nongovernmental subrecipient. Inventories should be adjusted to reflect, at a minimum, replacement asset serial numbers.

**6. Insurance**

All subrecipients shall maintain appropriate levels of property insurance coverage in the event of property loss, theft, or damage. Additional insurance requirements are detailed within the subrecipient contract terms.

**7. Surplus Property**

Cost-effective program management suggests the transfer of unused property from one subrecipient to another, rather than have the same property purchased by a second subrecipient.

Maintenance agreements for property are transferable. Property purchased under a lease-purchase agreement, including but not limited to agreements with a balance due, may be transferred to another subrecipient if this arrangement meets with the approval of the lessee and lessor. The receiving subrecipient will assume the lease-purchase agreement (see "Lease Arrangements" below) and pay the remaining balance.

CDLE will forward any information concerning the availability of surplus property to applicable subrecipients within a two-week period of time. The first acceptable request received by the CDLE for such property will be approved.

The subrecipient requesting surplus property will be responsible to coordinate the transfer of the property and pay all costs of the transfer, including transit insurance, if necessary.

The subrecipient contributing the surplus property must prepare a Transfer of Surplus Property Form (Attachment 8), including proper signature and date.

The original form must accompany the property to the new location for the receiving subrecipient to sign and date it. The receiving subrecipient must then submit the original Transfer of Surplus form (with completed signatures) to the CDLE within 30 calendar days from the date of transfer.

**8. Lease Arrangements**

If a property lease/purchase agreement amount is over \$5,000 or more, then the property management rules with regard to equipment within this PGL apply. The decision to rent or buy property must be governed by consideration of economy. Consideration may differ by property type and according to market conditions. Leasing is generally the least economical method of obtaining required property. Leasing with an option to purchase at the end of the contract or sooner is allowable and preferred to straight leasing. Subrecipients may not rent or lease their own personal property or from other activities/individuals in which they have a vested interest or



which has an interest vested in them. In **no case** may the subrecipient exercise the option to purchase for personal gain.

**9. Purchasing Nonexpendable Supplies for Participants**

All subrecipients must have policies and procedures in place for property management and accountability of nonexpendable supplies purchased for participant support and training. This policy must insure tracking of the participant's supplies for a reasonable amount of time after the effective and **successful** termination and/or placement in an employment activity, as applicable.

If the participant is **un**successfully terminated and/or is not retained in an employment activity for a reasonable amount of time, as stated by the subrecipient's policy, the subrecipient should make every effort to retain or have the participant return the nonexpendable supplies to the subrecipient, in accordance with the subrecipient policies and procedure, for use by another client or program.

**10. Copyrights**

The subrecipient may copyright any work that is subject to copyright and was developed or for which ownership was purchased under a CDLE contract. The Federal awarding agency(ies) reserve a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use the work for Federal purposes, and to authorize others to do so.

**11. Patents and Inventions** (applies to non-profits, institutions of higher education, and small business firms only).

Non-profits, institutions of higher education, and small business firm subrecipients are subject to applicable regulation governing patents and inventions, including government-wide regulations issued by the Department of Commerce at 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts, and Cooperative Agreements."

**12. Data**

The Federal Government has the right to obtain, reproduce, publish, or otherwise use the data first produced under a CDLE federal award and authorize others to receive, reproduce, publish, or otherwise use of such data for Federal purposes.

**13. Research Data**

In response to a Freedom of Information Act (FOIA) request for research data relating to published research findings produced under an award that were used by the Federal Government in developing an agency action that has the force and effect of law, CDLE shall request, and the subrecipient shall provide, within a reasonable time, the research data so that they can be made available to the public through procedures established under the FOIA.

**14. Redesignation of Workforce Region Responsibility**

In cases where a subrecipient relinquishes responsibility for administering CDLE pass-through funding, all equipment and nonexpendable supplies will be transferred to the agency identified by the Governor to assume the administrative duties for the subrecipient.

**V. IMPLEMENTATION DATE**

This PGL is effective immediately.

**VI. INQUIRIES:**

Inquiries concerning this PGL should be directed to the Employment and Training Accountant or Auditor, at 303-318-8117 or 303-318-8058, respectively.

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Jeffrey M. Wells  
Deputy Executive Director

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Robert D. Hale, Director  
Division of Employment and Training

Attachments:

- 1 – Property Definitions
- 2 – Property provisions in the Common Rule (State and Local Governments)
- 3 – Property provisions in OMB Circular A-110 (Higher Education, Hospitals, and Non-Profits)
- 4 - Property Requisition Authorization Form (PRAF) with instructions
- 5 – Property Acquisition Form (PAF) with instructions
- 6 – Subrecipient Certification of Physical Inventory
- 7 – Property Physical Inventory Test
- 8 – Transfer of Surplus Property form with instructions

## **PROPERTY DEFINITIONS**

**Acquisition Cost.** The net invoice unit price of an item of purchased equipment including the cost of modifications, attachments, accessories, or auxiliary apparatus necessary to make the property usable for the purpose for which it was acquired. Other charges such as the cost of installation, transportation, taxes, duty or protective in-transit insurance, shall be included or excluded from the unit acquisition cost in accordance with the grantee's regular accounting practices.

**Commercial Organization.** Any business entity organized primarily for profit (even if its ownership is in the hands of a nonprofit entity) with a place of business located in or outside the United States. The term included, but is not limited to, an individual, partnership, corporation, joint venture, association, or cooperative.

**Copyright.** The exclusive legal right to reproduce, publish, sell or otherwise use any matter developed or purchased.

**Data.** Factual information used as a basis for reasoning, discussion, or calculation.

**Equipment.** Tangible, nonexpendable, personal property having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit. A grantee may use its own definition of equipment provided that such definition would at least include all equipment defined above.

**Patents and Inventions.** Any invention or discovery which is or may be patentable or otherwise protectable under Title 35 of the United States Code, or any novel variety of plant which is or may be protectable under the Plant Variety Protection Act (7 U.S.C. 2321 et seq.). The term subject invention means any invention of a contractor conceived or first actually reduced to practice in the performance of work under a funding agreement; provided that in the case of a variety of plant, the date of determination (as defined in section 41(d) of the Plant Variety Protection Act, 7 U.S.C. 2401(d)) must also occur during the period of contract performance.

**Property.** Includes tangible nonexpendable property such as real property, equipment, and supplies. Includes tangible expendable property such as supplies as defined. Includes intangible property such as copyrights, patents and inventions, data, and research data as defined.

**Real property.** Land, including land improvements, structures and appurtenances thereto, excluding movable machinery and equipment.

**Supplies.** Tangible, nonexpendable or expendable personal property other than equipment as defined above. Nonexpendable supplies are tangible personal property having a useful life of more than one year and an acquisition cost of less than \$5,000 per unit. Expendable supplies are tangible personal property having a useful life of less than one year and an acquisition cost of less than \$5,000 per unit.

**Research Data.** The recorded factual material commonly accepted in the scientific community as necessary to validate research findings, but not any of the following: preliminary analysis, drafts of scientific papers, plans for future research, peer reviews, or communications with colleagues. This "recorded" material excludes physical objects (e.g. laboratory samples). Research data also do not include: Trade secrets, commercial information, materials necessary to be held confidential by a researcher until they are published, or similar information which is protected by law; and personnel and medical information and similar information the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, such as information that could be used to identify a particular person in a research study.

**Unit.** A "unit" means one item which functions alone (e.g., typewriter) or unit may also apply to a group of items that can not function separately or individually. An example of this would be a monitor, keyboard, mouse, and disk drive(s) [whether floppy or hard drive, internal or external].